

CHAPTER 9

LOAN CLOSING

LOAN CLOSING

SBA guaranteed loans are to be closed by Lenders in accordance with prudent closing procedures and the terms and conditions specified in the loan Authorization. On non-PLP and non-SBA Express loans, any change to the Authorization **MUST** be approved by SBA in writing before any subsequent disbursements are made. Tight control of disbursements should be maintained at all times to insure consistency with the purposes of the loan as set forth in the Authorization. The use of joint payee checks and/or thorough documentation of application of proceeds is required to insure such control.

Costs of closing, including all recording and filing fees, title company reports, survey and attorney expenses, are generally paid by the borrower (or may be deducted from loan proceeds if sufficient closing or working capital proceeds have been authorized in the Authorization).

Once SBA has approved a guaranty request, SBA Counsel sends the Lender a copy of the Authorization. **Lenders always should review the requirements of each Authorization issued by SBA thoroughly. An Authorization may contain unique requirements depending upon various loan situations.**

SBA forms fall into one of two categories - required or discretionary.

Although the lender may use many of its standard closing forms, for all non-SBA Express loans the following SBA forms are **REQUIRED**:

Note	SBA Form 147
Guaranty	SBA Form 148
Limited Guaranty	SBA Form 148L
Compensation Agreement For Services	SBA Form 159
Agreement of Compliance	SBA Form 601
Equal Opportunity Poster	SBA Form 722
Notice to New Borrowers	SBA Form 793
Settlement Sheet	SBA Form 1050
Debarment Certificate	SBA Form 1624

Use of the following forms is **DISCRETIONARY**:

Mortgage	SBA Form 928
Security Agreement	SBA Form 1059
Corporate Resolution	SBA Form 160
Certificate as to Partners	SBA Form 160A
Standby Agreement	SBA Form 155
Lessor's Agreement	RO IV Form 77
Collateral Assignment of Lease	RO IV Form 79

Lenders are responsible for completing the forms, having them properly executed, and when applicable, recorded in the Public Records. SBA approved Note terms as contained in the Authorization **MUST** be used when

preparing the Note. The Note terms may not be changed without prior agency approval.

The following language **MUST** appear in all lien instruments including mortgages and security agreements:

"The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations:

- a) When SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with federal law.*
- b) Lender or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan.*

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument."

DISBURSEMENTS and CANCELLATIONS: On all loans processed by this SBA District Office, Lender **MUST** forward to this office Compensation Agreements [SBA Form 159] with itemization of fees if the total per the particular service rendered exceeds \$1,000. Should you decide not to close and/or fully disburse the loan, it is necessary for you to write this office and request cancellation of the full loan or any undisbursed balance. (Note: Do **NOT** send Settlement Sheets (SBA Form 1050) to SBA, even though the instructions on the form state that you should do so. They should be retained in the lender's files.)

GUARANTY FEE: The Guaranty Fee must be mailed directly to SBA Financial Operations, P. O. Box 205, Denver, Colorado 80201-0205 within 90 days from the date of the Authorization. The fee may be charged to the borrower after the bank has paid the agency and at least one disbursement (beyond the guarantee fee amount) has been made under the Note. Please specify the SBA loan number and "guaranty fee" on your check.

TAX VERIFICATIONS: The following procedure **MUST** be followed for tax verifications. Lender **MUST** retain on file the tax return verification(s) received from IRS and a summary evaluation of its comparison to those returns which were submitted with the loan application package. If significant discrepancies exist between the IRS tax return and the tax return data submitted with the SBA loan package, Lender **MUST** notify SBA without informing the borrower. In addition, Lender **MUST** send copies of the tax returns and IRS tax return data with

an explanation of the significant discrepancies to SBA. We will cancel our guaranty whenever significant discrepancies are found between the IRS tax return data and the tax return data submitted with the SBA loan application. In the event that closing was delayed due to IRS verification, please annotate the Lender's Certification (SBA Form 2004).

Should you need additional forms, many of SBA's forms may be retrieved via www.sba.gov/banking. For further information please call 904-443-1990.

SUGGESTIONS TO AVOID COMMON CLOSING DEFICIENCIES

FINANCING STATEMENTS (UCC RECORDINGS): If the Authorization requires a security interest in FIXTURES, a UCC must be filed in the County records. If property where fixtures are located is owned by Borrower, include or attach property address/description to the UCC. If property is leased, include or attach property address/description and an indication as to who owns the property. If taking an interest on fixtures in multiple locations, all property locations should be described. Amendments need to be filed if and when Borrower changes or adds a location(s). [Note: *Fixtures might also include items such as signs, walk-in coolers, etc.*]

PROOF OF EQUITY INJECTION: If the Authorization contains a requirement for Lender to verify initial (or additional) Borrower's equity injection, extreme caution should be taken in the verification process. Injection is not considered as equity if a "note payable to shareholder" is issued UNLESS a Standby Agreement is executed by the shareholder. If SBA was unaware that the "injection" would be in the form of a note, we should be informed and the Authorization should be modified to require a Standby Agreement. How the equity is injected (i.e. in the form of cash for working capital, purchase of M&E, etc.) should conform with the proforma balance sheet used in the loan approval process OR as specified in the Authorization. Care should be taken to insure that the same invoices/receipts are not used to document equity injection and to obtain reimbursement for expenditures authorized in the "use of loan proceeds" section of the Authorization. Documentation should be in the form of cancelled checks, paid invoices, copies of business' bank statements, etc.

CORPORATION'S STATUS: Copies of Articles of Incorporation and Corporate Charter are not sufficient to verify a corporation's current status. To verify that a corporation is currently authorized to do business in the State of Florida, it behooves the Lender to obtain a "Certificate of Good Standing" from the Secretary of State. This is suggested regardless of whether the corporation is a Borrower or a Guarantor.

VERIFICATION OF LIEN POSITION: In order to insure proper lien position was obtained, a final lien/title search(es) should be performed AFTER the security instrument (UCC, mortgage, etc.) has been recorded. If any intervening liens were recorded, Lender should immediately contact local SBA office to determine whether or not the Authorization can be modified. [*It's better to discover*

this now and try to work things out BECAUSE if it is not discovered until the guaranty purchase process, IT WILL BE TOO LATE to do anything about it. Lender could then be penalized if improper lien position causes the Agency to suffer any loss.]

U. S. Small Business Administration

7825 Baymeadows Way, Suite 100B

Jacksonville, FL 32256-7504

-M-E-M-O-R-A-N-D-U-M-

TO: SBA Lenders

SUBJECT: Mortgages

It has been brought to our attention that some bankruptcy courts in Florida will not permit attorney's fees in certain bankruptcy situations UNLESS such fees specifically are covered in the mortgage language. The following is some suggested language you might want to add to the mortgage required in the Loan Authorization.

The mortgagor shall pay all of the mortgagee's reasonable court costs incurred in any proceeding in any Bankruptcy proceeding filed by or against the mortgagor, which shall include, but shall not be limited to, filing a Proof of Claim, actions to obtain Relief of Stay or secure Adequate Protection, and any adversary action in Bankruptcy.

FEIN

Borrower:

Address:

Phone #

Home Phone #

FAX:

Bank Officer:

Closing Date:

at office of

Loan #:	Req- uested	Prepared By	Reviewed By	In File	Status/Comments
Closing Statement		Attorney			
Note - SBA Form 147		A			
Settlement Sheet SBA Form 1050		A			
Compensation Agreements -		A			
Legal -		A			
Title Insurance -		A			
Appraisal -		Bank			
Environmental -		B			
Survey -		B			
Loan AUTHORIZATION		B			
Borrower's Certification					
Unremedied Adverse Change Affidavit		A			
Credit Reports (pre-closing)		B			
Current Form 941					
FUNDING DOCUMENTS:					
List of Current FF&E and/or M&E					
FF&E and/or M&E Quotes					
Inventory Invoices					
A/R Current Aging					
A/P Current Aging					
Copy of Note Mtg (Refinance)					
Payoff on Refinancing					
Mortgage - SBA Form 928					
Title Insurance Policy (Commitment)					
Survey - certified to all parties					
Title Search (pre-closing)					
Title Search (post-closing)					
Security Agreement - SBA Form 1059					
UCC-11 Lien Search (pre-closing)					
UCC-1 filed					State [] County []
UCC search (post-closing)					
Auto/Equip titles					
Hazard Insurance - Business					Lender's Loss Payable Clause
Hazard Insurance - Residence					
Flood Insurance					
Personal Guaranty - SBA Form 148					
Limited Guaranty - SBA Form 148L					
Life Insurance Policies					
Life Insurance Assignments					
Life Insurance Questionnaire(s)					
Collateral Receipts - Life Ins.					
Hypothecation Agreement					
Lease (Executed)					
Lease Assignment					
Lessor's Agreement					# days =
Franchise Agreement (Executed)					
Franchise Assignment					
Waiver of Royalty Fees in Default					
Standby Agreement-Form 155					
Note Receivable Assignment					
Acknowledgement of N/R Pledged					
Original of Note Pledged					

Original of Mortgage Pledged					
Collateral receipt - Note/Mortgage					
Corporate Resolution - Form 160					
Certificate of Status (current)					
Fictitious name compliance					
Non-Incorporation Affidavit					
Partnership Agreement					
Certificate as to Partners - Form 160A					
Compliance Agreement 601A					
Subordination Agreement					
Ownership % Affidavit					
Child Support Affidavit					
Agreement of Assurance					
Appraisal review by Loan Officer					
Environmental Audit					
Proof of Equity Injection					
Business License(s)					
Equal Opportunity Poster - Form 722					
Notice to New Borrowers - Form 793					

- IF CONSTRUCTION-					
Construction Agreement					
Builder Contract (Executed)					
Affidavit of No Liens					
SBA Form 601 (Executed)					
Lien Waivers					
Pre-Sale Contracts					
Zoning Certificate					
Building Permits					
Plans & Specifications					
Notice of Commencement					
Draw Schedule					
Builders Risk & W/C Insurance					
Letter of No Material Change					
Owner/Contractor Affidavit					
Payment & Performance Bond					
#NAME?					
Certificate of Occupancy					
Appraisal Re-Certification					
As Improved Survey					
Final Lien Waivers					
Title Update					
Const. Inspection Reports					
Const. Draw File					
Business License(s)					
Special Instructions:					
Contacts:					
Attorney:					
& Phone Number:					
Fax Number					

S A M P L E



U.S. Small Business Administration

NOTE

SBA Loan #	
SBA Loan Name	
Date	
Loan Amount	
Interest Rate	
Borrower	
Operating Company	
Lender	

1. PROMISE TO PAY:

In return for the Loan, Borrower promises to pay to the order of Lender the amount of _____ Dollars,
interest on the unpaid principal balance, and all other amounts required by this Note.

2. DEFINITIONS:

“Collateral” means any property taken as security for payment of this Note or any guarantee of this Note.

“Guarantor” means each person or entity that signs a guarantee of payment of this Note.

“Loan” means the loan evidenced by this Note.

“Loan Documents” means the documents related to this loan signed by Borrower, any Guarantor, or anyone who pledges collateral.

“SBA” means the Small Business Administration, an Agency of the United States of America.

3. PAYMENT TERMS:

Borrower must make all payments at the place Lender designates. The payment terms for this Note are:

A large, empty rectangular box with a thin black border, occupying the majority of the page below the text. It is intended for the borrower to specify the payment terms for the note.

4. DEFAULT:

Borrower is in default under this Note if Borrower does not make a payment when due under this Note, or if Borrower or Operating Company:

- A. Fails to do anything required by this Note and other Loan Documents;
- B. Defaults on any other loan with Lender;
- C. Does not preserve, or account to Lender's satisfaction for, any of the Collateral or its proceeds;
- D. Does not disclose, or anyone acting on their behalf does not disclose, any material fact to Lender or SBA;
- E. Makes, or anyone acting on their behalf makes, a materially false or misleading representation to Lender or SBA;
- F. Defaults on any loan or agreement with another creditor, if Lender believes the default may materially affect Borrower's ability to pay this Note;
- G. Fails to pay any taxes when due;
- H. Becomes the subject of a proceeding under any bankruptcy or insolvency law;
- I. Has a receiver or liquidator appointed for any part of their business or property;
- J. Makes an assignment for the benefit of creditors;
- K. Has any adverse change in financial condition or business operation that Lender believes may materially affect Borrower's ability to pay this Note;
- L. Reorganizes, merges, consolidates, or otherwise changes ownership or business structure without Lender's prior written consent; or
- M. Becomes the subject of a civil or criminal action that Lender believes may materially affect Borrower's ability to pay this Note.

5. LENDER'S RIGHTS IF THERE IS A DEFAULT:

Without notice or demand and without giving up any of its rights, Lender may:

- A. Require immediate payment of all amounts owing under this Note;
- B. Collect all amounts owing from any Borrower or Guarantor;
- C. File suit and obtain judgment;
- D. Take possession of any Collateral; or
- E. Sell, lease, or otherwise dispose of, any Collateral at public or private sale, with or without advertisement.

6. LENDER'S GENERAL POWERS:

Without notice and without Borrower's consent, Lender may:

- A. Bid on or buy the Collateral at its sale or the sale of another lienholder, at any price it chooses;
- B. Incur expenses to collect amounts due under this Note, enforce the terms of this Note or any other Loan Document, and preserve or dispose of the Collateral. Among other things, the expenses may include payments for property taxes, prior liens, insurance, appraisals, environmental remediation costs, and reasonable attorney's fees and costs. If Lender incurs such expenses, it may demand immediate repayment from Borrower or add the expenses to the principal balance;
- C. Release anyone obligated to pay this Note;
- D. Compromise, release, renew, extend or substitute any of the Collateral; and
- E. Take any action necessary to protect the Collateral or collect amounts owing on this Note.

7. WHEN FEDERAL LAW APPLIES:

When SBA is the holder, this Note will be interpreted and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax, or liability. As to this Note, Borrower may not claim or assert against SBA any local or state law to deny any obligation, defeat any claim of SBA, or preempt federal law.

8. SUCCESSORS AND ASSIGNS:

Under this Note, Borrower and Operating Company include the successors of each, and Lender includes its successors and assigns.

9. GENERAL PROVISIONS:

- A. All individuals and entities signing this Note are jointly and severally liable.
- B. Borrower waives all suretyship defenses.
- C. Borrower must sign all documents necessary at any time to comply with the Loan Documents and to enable Lender to acquire, perfect, or maintain Lender's liens on Collateral.
- D. Lender may exercise any of its rights separately or together, as many times and in any order it chooses. Lender may delay or forgo enforcing any of its rights without giving up any of them.
- E. Borrower may not use an oral statement of Lender or SBA to contradict or alter the written terms of this Note.
- F. If any part of this Note is unenforceable, all other parts remain in effect.
- G. To the extent allowed by law, Borrower waives all demands and notices in connection with this Note, including presentment, demand, protest, and notice of dishonor. Borrower also waives any defenses based upon any claim that Lender did not obtain any guarantee; did not obtain, perfect, or maintain a lien upon Collateral; impaired Collateral; or did not obtain the fair market value of Collateral at a sale.

10. STATE-SPECIFIC PROVISIONS:

11. BORROWER'S NAME(S) AND SIGNATURE(S):

By signing below, each individual or entity becomes obligated under this Note as Borrower.



U.S. Small Business Administration

UNCONDITIONAL GUARANTEE

SBA Loan #	
SBA Loan Name	
Guarantor	
Borrower	
Lender	
Date	
Note Amount	

1. GUARANTEE:

Guarantor unconditionally guarantees payment to Lender of all amounts owing under the Note. This Guarantee remains in effect until the Note is paid in full. Guarantor must pay all amounts due under the Note when Lender makes written demand upon Guarantor. Lender is not required to seek payment from any other source before demanding payment from Guarantor.

2. NOTE:

The "Note" is the promissory note dated _____ in the principal amount of _____ Dollars, from Borrower to Lender. It includes any assumption, renewal, substitution, or replacement of the Note, and multiple notes under a line of credit.

3. DEFINITIONS:

"Collateral" means any property taken as security for payment of the Note or any guarantee of the Note.

"Loan" means the loan evidenced by the Note.

"Loan Documents" means the documents related to the Loan signed by Borrower, Guarantor or any other guarantor, or anyone who pledges Collateral.

"SBA" means the Small Business Administration, an Agency of the United States of America.

4. LENDER'S GENERAL POWERS:

Lender may take any of the following actions at any time, without notice, without Guarantor's consent, and without making demand upon Guarantor:

- A. Modify the terms of the Note or any other Loan Document except to increase the amounts due under the Note;
- B. Refrain from taking any action on the Note, the Collateral, or any guarantee;
- C. Release any Borrower or any guarantor of the Note;
- D. Compromise or settle with the Borrower or any guarantor of the Note;
- E. Substitute or release any of the Collateral, whether or not Lender receives anything in return;
- F. Foreclose upon or otherwise obtain, and dispose of, any Collateral at public or private sale, with or without advertisement;
- G. Bid or buy at any sale of Collateral by Lender or any other lienholder, at any price Lender chooses; and
- H. Exercise any rights it has, including those in the Note and other Loan Documents.

These actions will not release or reduce the obligations of Guarantor or create any rights or claims against Lender.

5. FEDERAL LAW:

When SBA is the holder, the Note and this Guarantee will be construed and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax, or liability. As to this Guarantee, Guarantor may not claim or assert any local or state law against SBA to deny any obligation, defeat any claim of SBA, or preempt federal law.

6. RIGHTS, NOTICES, AND DEFENSES THAT GUARANTOR WAIVES:

To the extent permitted by law,

A. Guarantor waives all rights to:

- 1) Require presentment, protest, or demand upon Borrower;
- 2) Redeem any Collateral before or after Lender disposes of it;
- 3) Have any disposition of Collateral advertised; and
- 4) Require a valuation of Collateral before or after Lender disposes of it.

B. Guarantor waives any notice of:

- 1) Any default under the Note;
- 2) Presentment, dishonor, protest, or demand;
- 3) Execution of the Note;
- 4) Any action or inaction on the Note or Collateral, such as disbursements, payment, nonpayment, acceleration, intent to accelerate, assignment, collection activity, and incurring enforcement expenses;
- 5) Any change in the financial condition or business operations of Borrower or any guarantor;
- 6) Any changes in the terms of the Note or other Loan Documents, except increases in the amounts due under the Note; and
- 7) The time or place of any sale or other disposition of Collateral.

C. Guarantor waives defenses based upon any claim that:

- 1) Lender failed to obtain any guarantee;
- 2) Lender failed to obtain, perfect, or maintain a security interest in any property offered or taken as Collateral;
- 3) Lender or others improperly valued or inspected the Collateral;
- 4) The Collateral changed in value, or was neglected, lost, destroyed, or underinsured;

- 5) Lender impaired the Collateral;
- 6) Lender did not dispose of any of the Collateral;
- 7) Lender did not conduct a commercially reasonable sale;
- 8) Lender did not obtain the fair market value of the Collateral;
- 9) Lender did not make or perfect a claim upon the death or disability of Borrower or any guarantor of the Note;
- 10) The financial condition of Borrower or any guarantor was overstated or has adversely changed;
- 11) Lender made errors or omissions in Loan Documents or administration of the Loan;
- 12) Lender did not seek payment from the Borrower, any other guarantors, or any Collateral before demanding payment from Guarantor;
- 13) Lender impaired Guarantor's suretyship rights;
- 14) Lender modified the Note terms, other than to increase amounts due under the Note. If Lender modifies the Note to increase the amounts due under the Note without Guarantor's consent, Guarantor will not be liable for the increased amounts and related interest and expenses, but remains liable for all other amounts;
- 15) Borrower has avoided liability on the Note; or
- 16) Lender has taken an action allowed under the Note, this Guarantee, or other Loan Documents.

7. DUTIES AS TO COLLATERAL:

Guarantor will preserve the Collateral pledged by Guarantor to secure this Guarantee. Lender has no duty to preserve or dispose of any Collateral.

8. SUCCESSORS AND ASSIGNS:

Under this Guarantee, Guarantor includes heirs and successors, and Lender includes its successors and assigns.

9. GENERAL PROVISIONS:

- A. ENFORCEMENT EXPENSES. Guarantor promises to pay all expenses Lender incurs to enforce this Guarantee, including, but not limited to, attorney's fees and costs.
- B. SBA NOT A CO-GUARANTOR. Guarantor's liability will continue even if SBA pays Lender. SBA is not a co-guarantor with Guarantor. Guarantor has no right of contribution from SBA.
- C. SUBROGATION RIGHTS. Guarantor has no subrogation rights as to the Note or the Collateral until the Note is paid in full.
- D. JOINT AND SEVERAL LIABILITY. All individuals and entities signing as Guarantor are jointly and severally liable.
- E. DOCUMENT SIGNING. Guarantor must sign all documents necessary at any time to comply with the Loan Documents and to enable Lender to acquire, perfect, or maintain Lender's liens on Collateral.
- F. FINANCIAL STATEMENTS. Guarantor must give Lender financial statements as Lender requires.
- G. LENDER'S RIGHTS CUMULATIVE, NOT WAIVED. Lender may exercise any of its rights separately or together, as many times as it chooses. Lender may delay or forgo enforcing any of its rights without losing or impairing any of them.
- H. ORAL STATEMENTS NOT BINDING. Guarantor may not use an oral statement to contradict or alter the written terms of the Note or this Guarantee, or to raise a defense to this Guarantee.
- I. SEVERABILITY. If any part of this Guarantee is found to be unenforceable, all other parts will remain in effect.
- J. CONSIDERATION. The consideration for this Guarantee is the Loan or any accommodation by Lender as to the Loan.

10. STATE-SPECIFIC PROVISIONS:

11. GUARANTOR ACKNOWLEDGMENT OF TERMS.

Guarantor acknowledges that Guarantor has read and understands the significance of all terms of the Note and this Guarantee, including all waivers.

12. GUARANTOR NAME(S) AND SIGNATURE(S):

By signing below, each individual or entity becomes obligated as Guarantor under this Guarantee.

A large, empty rectangular box with a thin black border, intended for the guarantor to provide their name and signature.



UNCONDITIONAL LIMITED GUARANTEE

SBA Loan #	
SBA Loan Name	
Guarantor	
Borrower	
Lender	
Date	
Note Amount	

1. GUARANTEE:

Guarantor unconditionally guarantees payment to Lender of all amounts owing under the Note, as limited below. Guarantor must pay all amounts owing under this Guarantee when Lender makes written demand upon Guarantor. Lender is not required to seek payment from any other source before demanding payment from Guarantor.

2. NOTE:

The "Note" is the promissory note dated _____ in the principal amount of _____ Dollars, from Borrower to Lender. It includes any assumption, renewal, substitution, or replacement of the Note, and multiple notes under a line of credit.

3. DEFINITIONS:

"Collateral" means any property taken as security for payment of the Note or any guarantee of the Note.

"Loan" means the loan evidenced by the Note.

"Loan Documents" means the documents related to the Loan signed by Borrower, Guarantor or any other guarantor, or anyone who pledges Collateral.

"SBA" means the Small Business Administration, an Agency of the United States of America.

4. PAYMENT LIMITATION: *(Check only one box)*

- ☐ BALANCE REDUCTION: The guarantee is of all amounts owing under the Note, and will continue until the total of all amounts owing under the Note is reduced below \$ _____, at which time Guarantor will be released from liability if the Note is not in default.
- ☐ PRINCIPAL REDUCTION: The guarantee is of all amounts owing under the Note, and will continue until the outstanding principal balance of the Note is reduced below \$ _____, at which time Guarantor will be released from liability if the Note is not in default.
- ☐ MAXIMUM LIABILITY: The guarantee is limited to Guarantor's payment of \$ _____.
- ☐ PERCENTAGE: The guarantee is limited to Guarantor's payment of _____ % of all amounts owing under the Note at the time demand is first made on Guarantor, plus the same percentage of any accrued interest and other costs charged to the Note after demand, until Guarantor fully performs this Guarantee.
- ☐ TIME: The guarantee is of all amounts owing under the Note. The guarantee will continue until _____ years after the date of the Note (the "Guarantee Period"). If Borrower is in default at the end of the Guarantee Period, the guarantee will continue until all defaults are cured.
- ☐ COLLATERAL/RECOURSE: The guarantee is limited to the amount Lender obtains from the following Collateral pledged by Guarantor:

- ☐ COMMUNITY PROPERTY OR SPOUSAL INTEREST: The guarantee is limited to Guarantor's community property or spousal interest in collateral pledged to secure the Note or any guarantee.

5. LENDER'S GENERAL POWERS:

Lender may take any of the following actions at any time, without notice, without Guarantor's consent, and without making demand upon Guarantor:

- A. Modify the terms of the Note or any other Loan Document except to increase the amounts due under the Note;
- B. Refrain from taking any action on the Note, the Collateral, or any guarantor;
- C. Release any Borrower or any guarantor of the Note;
- D. Compromise or settle with the Borrower or any guarantor of the Note;
- E. Substitute or release any of the Collateral, whether or not Lender receives anything in return;
- F. Foreclose upon or otherwise obtain, and dispose of, any Collateral at public or private sale, with or without advertisement;
- G. Bid or buy at any sale of Collateral by Lender or any other lienholder, at any price Lender chooses; and
- H. Exercise any rights it has, including those in the Note and other Loan Documents.

These actions will not release or reduce the obligations of Guarantor or create any rights or claims against Lender.

6. FEDERAL LAW:

When SBA is the holder, the Note and this Guarantee will be construed and enforced under federal law, including SBA regulations. Lender or SBA may use state or local procedures for filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using such procedures, SBA does not waive any federal immunity from state or local control, penalty, tax, or liability. As to this Guarantee, Guarantor may not claim or assert any local or state law against SBA to deny any obligation, defeat any claim of SBA, or preempt federal law.

7. RIGHTS, NOTICES, AND DEFENSES THAT GUARANTOR WAIVES:

To the extent permitted by law,

- A. Guarantor waives all rights to:
 - 1) Require presentment, protest, or demand upon Borrower;
 - 2) Redeem any Collateral before or after Lender disposes of it;
 - 3) Have any disposition of Collateral advertised; and
 - 4) Require a valuation of Collateral before or after Lender disposes of it.
- B. Guarantor waives any notice of:
 - 1) Any default under the Note;
 - 2) Presentment, dishonor, protest, or demand;
 - 3) Execution of the Note;
 - 4) Any action or inaction on the Note or Collateral, such as disbursements, payment, nonpayment, acceleration, intent to accelerate, assignment, collection activity, and incurring enforcement expenses;
 - 5) Any change in the financial condition or business operations of Borrower or any guarantor;
 - 6) Any changes in the terms of the Note or other Loan Documents, except increases in the amounts due under the Note; and
 - 7) The time or place of any sale or other disposition of Collateral.
- C. Guarantor waives defenses based upon any claim that:
 - 1) Lender failed to obtain any guarantee;
 - 2) Lender failed to obtain, perfect, or maintain a security interest in any property offered or taken as Collateral;
 - 3) Lender or others improperly valued or inspected the Collateral;
 - 4) The Collateral changed in value, or was neglected, lost, destroyed, or underinsured;

- 5) Lender impaired the Collateral;
- 6) Lender did not dispose of any of the Collateral;
- 7) Lender did not conduct a commercially reasonable sale;
- 8) Lender did not obtain the fair market value of the Collateral;
- 9) Lender did not make or perfect a claim upon the death or disability of Borrower or any guarantor of the Note;
- 10) The financial condition of Borrower or any guarantor was overstated or has adversely changed;
- 11) Lender made errors or omissions in Loan Documents or administration of the Loan;
- 12) Lender did not seek payment from the Borrower, any other guarantors, or any Collateral before demanding payment from Guarantor;
- 13) Lender impaired Guarantor's suretyship rights;
- 14) Lender modified the Note terms, other than to increase amounts due under the Note. If Lender modifies the Note to increase the amounts due under the Note without Guarantor's consent, Guarantor will not be liable for the increased amounts and related interest and expenses, but remains liable for all other amounts;
- 15) Borrower has avoided liability on the Note; or
- 16) Lender has taken an action allowed under the Note, this Guarantee, or other Loan Documents.

8. DUTIES AS TO COLLATERAL:

Guarantor will preserve the Collateral pledged by Guarantor to secure this Guarantee. Lender has no duty to preserve or dispose of any Collateral.

9. SUCCESSORS AND ASSIGNS:

Under this Guarantee, Guarantor includes successors, and Lender includes successors and assigns.

10. GENERAL PROVISIONS:

- A. ENFORCEMENT EXPENSES. Guarantor promises to pay all expenses Lender incurs to enforce this Guarantee, including, but not limited to, attorney's fees and costs.
- B. SBA NOT A CO-GUARANTOR. Guarantor's liability will continue even if SBA pays Lender. SBA is not a co-guarantor with Guarantor. Guarantor has no right of contribution from SBA.
- C. SUBROGATION RIGHTS. Guarantor has no subrogation rights as to the Note or the Collateral until the Note is paid in full.
- D. JOINT AND SEVERAL LIABILITY. All individuals and entities signing as Guarantor are jointly and severally liable.
- E. DOCUMENT SIGNING. Guarantor must sign all documents necessary at any time to comply with the Loan Documents and to enable Lender to acquire, perfect, or maintain Lender's liens on Collateral.
- F. FINANCIAL STATEMENTS. Guarantor must give Lender financial statements as Lender requires.
- G. LENDER'S RIGHTS CUMULATIVE, NOT WAIVED. Lender may exercise any of its rights separately or together, as many times as it chooses. Lender may delay or forgo enforcing any of its rights without losing or impairing any of them.
- H. ORAL STATEMENTS NOT BINDING. Guarantor may not use an oral statement to contradict or alter the written terms of the Note or this Guarantee, or to raise a defense to this Guarantee.
- I. SEVERABILITY. If any part of this Guarantee is found to be unenforceable, all other parts will remain in effect.
- J. CONSIDERATION. The consideration for this Guarantee is the Loan or any accommodation by Lender as to the Loan.

11. STATE-SPECIFIC PROVISIONS:

12. GUARANTOR ACKNOWLEDGMENT OF TERMS.

Guarantor acknowledges that Guarantor has read and understands the significance of all terms of the Note and this Guarantee, including all waivers.

13. GUARANTOR NAME(S) AND SIGNATURE(S):

By signing below, each individual or entity becomes obligated as Guarantor under this Guarantee.

A large, empty rectangular box with a thin black border, intended for the guarantor's signature and name. It occupies the majority of the lower half of the page.

COMPENSATION AGREEMENT
(SBA FORM 159)

- A. Loan number assigned by SBA.
- B. Amount of the compensation for services performed by a representative (accountant, attorney, packager, etc.) in connection with the loan application or loan closing. If the fees are over \$1,000.00, the services must be itemized on a schedule which must be attached. The schedule should reflect each date services were performed, time spent each day, and description of service rendered on each day listed.

If no compensation was paid for services, then enter "None".
- C. Date signed by representative (service provider).
- D. Name of the representative or representative's company. Below this loan and out beside the word "Representative", insert the type of representative (accountant, attorney, packager, etc.).
- E. Signature of the representative.
- F. Date signed by Applicant/Borrower.
- G. Name of the Applicant/Borrower.
- H. If the Applicant/Borrower is a corporation, insert the word "Attest" and a signature line; then signature of the person attesting the corporate officer's signature OR if the Applicant/Borrower is a partnership, insert a signature line(s) if more than one partner's signature is required.
- I. Signature of the Applicant/Borrower, Corporate Officer, or General Partner, as applicable.
- J. Date signed by Lender.
- K. Name of the Lender.
- L. Signature of the officer at the bank making the loan (or other authorized lender representative).

U.S. SMALL BUSINESS ADMINISTRATION
POLICY AND REGULATIONS CONCERNING REPRESENTATIVES AND THEIR FEES

An applicant for a loan from SBA may obtain the assistance of any attorney, accountant, engineer, appraiser or other representative to aid him in the preparation and presentation of his application to SBA; however, such representation is not mandatory. In the event a loan is approved, the services of an attorney may be necessary to assist in the preparation of closing documents, title abstracts, etc. SBA will allow the payment of reasonable fees or other compensation for services performed by such representatives on behalf of the applicant.

There are no "authorized representatives" of SBA, other than our regular salaried employees. Payment of any fee or gratuity to SBA employees is illegal and will subject the parties to such a transaction to prosecution.

SBA Regulations (Part 103, Sec. 103.13-5(c)) prohibit representatives from charging or proposing to charge any contingent fee for any services performed in connection with an SBA loan unless the amount of such fee bears a necessary and reasonable relationship to the services actually performed; or to charge for any expenses which are not deemed by SBA to have been necessary in connection with the application. The Regulations (Part 120, Sec. 120.104-2) also prohibit the payment of any bonus, brokerage fee or commission in connection with SBA loans.

In line with these Regulations SBA will not approve placement or finder's fees for the use or attempted use of influence in obtaining or trying to obtain an SBA loan, or fees based solely upon a percentage of the approved loan or any part thereof.

Fees which will be approved will be limited to reasonable sums of services actually rendered in connection with the application or the closing, based upon the time and effort required, the qualifications of the representative and the nature and extent of the services rendered by such representatives. Representatives of loan applicants will be required to execute an agreement as to their compensation for services rendered in connection with said loan.

It is the responsibility of the applicant to set forth in the appropriate section of the application the names of all persons or firms engaged by or on behalf of the applicant. Applicants are required to advise the Regional Office in writing the names and fees of any representatives engaged by the applicant subsequent to the filing of the application. This reporting requirement is approved under OMB Approval Number 3245-0016.

Any loan applicant having any question concerning the payments of fees, or the reasonableness of fees, should communicate with the Field Office where the application is filed.

SETTLEMENT SHEET
(SBA FORM 1050)

- A. Name and address of the Lender.
- B. Name of the Borrower.
- C. Loan number assigned by SBA.
- D. Basis Lender uses to compute interest (i.e. 30/360 or Actual/365.)
- E. Total of all prior disbursements. (If this is the first disbursement on the loan, enter "0.00". Otherwise, it should be the same number reflected as the "Total" on the most recent prior Settlement Sheet.)
- F. Total amount being disbursed on the date of this Settlement Sheet.
- G. Sum of all prior disbursements PLUS amount being disbursed on this Settlement Sheet (E + F).
- H. Total amount being disbursed on the date of this Settlement Sheet (should be same as F).
- I. Date on which funds are being disbursed.
- J. Letter of the "Use of Proceeds" paragraph from the Authorization [generally G for regular 7(a) loans].
- K. Number of the specific use of proceeds line item for which funds are being disbursed [i.e. G 1, G 2, etc.].
- L. Name of the Vendor to whom the funds are being paid. NOTE: lenders **must** retain evidence of each disbursement in the form of receipts, copies of checks, closing statements, etc.
- M. Date payment was made to Borrower/Vendor and amount that was paid.

Page 2- Settlement Sheet
SBA Form 1050

- N. Purpose as specified in the "Use of Proceeds" section of the Authorization (i.e. purchase real estate, construction, purchase m&e, etc.). If you are reimbursing Borrower for any use other than authorized working capital, indicate "Reimbursement for _____ evidenced by receipts" (indicate specific use as authorized in Authorization i.e. purchase m&e, etc.). If reimbursing Borrower, Lender must attach and keep a copy of the evidence (cancelled checks, paid invoices, etc.).
- O. Name of the Lender.
- P. Signature of authorized Lender's representative.
- Q. Date signed by the Lender's representative.
- R. Name of the Borrower.
- S. Signature of the Borrower. If the Borrower is a corporation, the signature of the corporate officer and his/her title. If the Borrower is a partnership, the signature of the general partner.
- T. Date signed by the Borrower.

(Note: Multiple payments issued on the same date should be listed on one form. If the space provided for itemizing payments is insufficient, a separate sheet itemizing the additional payments [and signed by Borrower] may be attached to the Form 159.



U.S. Small Business Administration
Settlement Sheet

OMB APPROVAL NO.: 3245-0200
EXPIRATION DATE: 3/31/2005

Lender (Name and Address - Include Zip Code) A	Borrower (Name) B
SBA Loan Number (10 digits) C	Lender Computes Interest on a D day basis.
Sum of Prior disbursements \$ E + This Disbursement \$ F = Total \$ G	

The provisions of 18 U.S.C. 1001 and 15 U.S.C. 645 provide certain criminal penalties for making false statements, willfully overvaluing collateral, or other prohibited acts. To induce SBA, directly or indirectly, to participate in this loan, the Borrower, subject to these provisions, acknowledges receipt of \$ **H** on **I** and certifies (1) that the proceeds at this disbursement will be, and all previous disbursements have been, used in accordance with the Loan Authorization, (2) that there has been no substantial adverse change in financial condition, organization, operations, or fixed assets since application for this loan was filed or since the previous disbursement, and (3) that there are no liens or encumbrances against the real or personal property securing the loan except those disclosed in the application for this loan. Lender certifies that disbursement of the loan proceeds was made and the loan proceeds were used as set forth below and in accordance with the Loan Authorization by issuance of joint payee checks as detailed below, except checks for cash operating capital, cash to reimburse borrower for evidenced expenditures made after loan approval date for such authorized use of proceeds, or as otherwise directed by the Loan Authorization, and that construction, paid with loan proceeds as listed below, has been completed. (Any deviation from the Loan Authorization must be authorized in writing by SBA prior to expenditure of the loan funds.)

See Paragraph **J**, of Authorization "Use of Proceeds"

Subparagraph K	Name of Payee L	Date and Amount of Payment M	Purpose N
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To further induce SBA to participate in the loan, Lender certifies that neither the Lender nor its Associates, officers, agents, affiliates or attorneys have charged or will charge or receive, directly or indirectly, any bonus, fee, commission, or other payment or benefit, or require a compensating balance, Certificate of Deposit, or other security in connection with making or servicing of this loan (other than those reported on SBA Forms 4 or 159 "Compensation Agreement"). It is understood that all fees not approved by SBA are prohibited, except as may be specifically permitted by the Loan Authorization, SBA regulations or the SBA Form 750 "Guaranty Agreement".

Lender O	Borrower R
By P	Signed S
Date Q	Date T

This Certification must be signed and retained in lender's file after each disbursement. If there is a large number of checks, itemize on separate sheets, sign and attach hereto.

SBA Review By	Title	Date
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The estimated burden for completion of this form is 45 minutes per response. You are not required to respond to any collection of information unless it displays a currently valid OMB approval number. Comments on the burden should be sent to U.S. Small Business Administration, Chief, AIB, 409 3RD St., S.W. Washington D.C. 20416 and Desk Officer for the Small Business Administration, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. OMB Approval (3245-0020). PLEASE DO NOT SEND FORMS TO OMB

SBA Form 1050 (3-02) REF SOP 70 50 Previous Editions are obsolete
This form was electronically produced by Elite Federal Forms, Inc.

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, ETC.
(SBA FORM 1624)**

- A. Name of the Borrower as reflected in the Loan Authorization, including any Fictitious Name under which business is transacted.
- B. Date signed by the Borrower.
- C. Typewritten name of the individual, partner or corporate officer who is signing the document followed by their exact title of office.
- D. Signature of the individual proprietor, partner, or corporate officer.

**Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Business Name **A**

Date **B** By **C**
Name and Title of Authorized Representative

 D
Signature of Authorized Representative

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

AGREEMENT OF COMPLIANCE
(SBA FORM 601)

- A. Name of Borrower as stated in Loan Authorization.
- B. Name of General Contractor who is performing construction.
- C. Date of execution- day, month, year.
- D. Complete business name, address and telephone number of Borrower.
- E. Typewritten name and title of the individual, partner or corporate officer signing on Borrower's behalf.
- F. Signature of the individual proprietor, partner or corporate officer signing on Borrower's behalf.
- G. Corporate seal to be affixed if Borrower is a corporation.
- H. Complete name, address and telephone number of General Contractor who is performing construction.
- I. Typewritten name and title of the person signing on the General Contractor's behalf.
- J. Signature of the person signing on the General Contractor's behalf.
- K. Corporate seal to be affixed if General Contractor is a corporation.

(Note: In cases such as an Eligible Passive Company [formerly alter ego] where the Borrower [Operating Entity] is not the owner of the property being improved by the construction, a block for the owner's name and title may be added and signature required at the bottom of the page.)

U.S. Small Business Administration

AGREEMENT OF COMPLIANCE

In compliance with Executive Order 11246, as amended (Executive Order 11246, as amended prohibits discrimination because of race, color, religion, sex, or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment by all contractors and subcontractors, performing work under a Federally assisted construction contract in excess of \$10,000, regardless of the number of employees), the applicant/recipient, contractor or subcontractor agrees that in consideration of the approval and as a condition of the disbursement of all or any part of a loan by the Small Business Administration (SBA) that it will incorporate or cause to be incorporated into any contract or subcontract in excess of \$10,000 for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor, at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
- (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the contractor's commitments under Executive Order 11246, as amended, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The contractor will comply with all provisions of Executive Order 11246, as amended, and the rules and relevant orders of the Secretary of Labor created thereby.
- (5) The contractor will furnish all information and reports required by Executive Order 11246, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by SBA (See SBA Form 793) and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders. (The information collection requirements contained in Executive Order 11246, as amended, are approved under OMB No. 1215-0072.)
- (6) In the event of the contractor's noncompliance with the nondiscrimination clause or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246, as amended, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (6) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Executive Order 11246, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as SBA may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however that in the event a contractor becomes involved in or is threatened with litigation with a subcontractor or vendor as a result of such direction by SBA, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

The Applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work.

The Applicant agrees that it will assist and cooperate actively with SBA and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that it will furnish SBA and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist SBA in the discharge of the Agency's primary responsibility for securing compliance. The Applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246, as amended, and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by SBA or the Secretary of Labor or such other sanctions and penalties for violation thereof as may, in the opinion of the Administrator, be necessary and appropriate.

In addition, the Applicant agrees that if it fails or refuses to comply with these undertakings SBA may take any or all of the following actions: cancel, terminate or suspend in whole or in part the loan; refrain from extending any further assistance to the applicant under the programs with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

In consideration of the approval by the Small Business Administration of a loan to B A
Applicant, said Applicant and _____
the general contractor, mutually promise and agree that the(y) will comply with all nondiscrimination provisions and requirements of Executive Order 11246, as amended.

Executed the C day of _____ 19____.

G

Corporate Seal

K

Corporate Seal

D

Name, Address, & Phone No. of Applicant

E

By _____
Typed Name & Title of Authorized Official

F

Signature of Authorized Official

H

Name, Address, & Phone No. of Subrecipient

I

By _____
Typed Name & Title of Authorized Official

J

Signature of Authorized Official

MORTGAGE
(SBA FORM 928)

- A. Day the Mortgage is signed.
- B. Month the Mortgage is signed.
- C. Year the Mortgage is signed.
- D. Name of the title holder of the property being mortgaged, followed by their current mailing address.
- E. Name of the Lender.
- F. Address of the Lender.
- G. County(ies) in which the mortgaged property is located.
- H. State in which the mortgaged property is located.
- I. COMPLETE legal description of the property being mortgaged. If legal description is a lengthy metes and bounds description, it may be set forth on an attached, accurately referenced exhibit.
- J. On mortgages given to secure a Guaranty, **insert** (by slash-in) the phrase "*the guaranty of*" after the word "*secure*" and before the word "*the*".
- K. Date of the promissory Note.
- L. Numeric dollar amount of the Loan/Note.
- M. Name of the person(s) who executed the promissory Note.
- N. Name of the business entity named as the Borrower in the Authorization. (Note: In cases where the name of the business entity is one and the same as the person signing the Note, you may delete [by strike-out] the phrase "*in behalf of*" instead of inserting the name again.
- O. On mortgages given to secure a Guaranty, **insert** the phrase "*which guaranty(ies) was(were) executed by*" **followed by** the *names of the party(ies) executing the guaranty(ies) being secured by the mortgage.*

- P. Mailing address of the Mortgagor(s).
- Q. Mailing address of the Lender.
- R. Name of the mortgagor (in proper execution form for an individual, proprietorship, partnership, corporation or trust as is appropriate).
- S. Signature of the person signing on behalf of the mortgagor.
- T. Printed or typewritten name and title of the person signing on behalf of the mortgagor.
- U. Signature of any additional mortgagor (Note: Additional signature lines may be added if needed.)
- V. Printed or typewritten name and title of any additional mortgagor.
- W. Signature of first witness.
- X. Printed or typewritten name of first witness.
- Y. Signature of second witness.
- Z. Printed or typewritten name of second witness.
- a. Legally sufficient acknowledgement(s) of the signatory party(ies) in proper form for an individual, proprietorship, partnership, corporation or trust as is appropriate.

MORTGAGE

(Participation)

This mortgage made and entered into this **A** day of **B**
19 **C**, by and between **D** **E**
(hereinafter referred to as mortgagor) and **F**
(hereinafter referred to as mortgagee), who maintains an office and place of business at

WITNESSETH, that for the consideration hereinafter stated, receipt of which is hereby acknowledged, the mortgagor does hereby mortgage, sell, grant, assign, and convey unto the mortgagee, his successors and assigns, all of the following described property situated and being in the County of **G**
State of **H**

I

Together with and including all buildings, all fixtures including but not limited to all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air conditioning apparatus, and elevators (the mortgagor hereby declaring that it is intended that the items herein enumerated shall be deemed to have been permanently installed as part of the realty), and all improvements now or hereafter existing thereon; the hereditaments and appurtenances and all other rights thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, all rights of redemption, and the rents, issues, and profits of the above described property (provided, however, that the mortgagor shall be entitled to the possession of said property and to collect and retain the rents, issues, and profits until default hereunder). To have and to hold the same unto the mortgagee and the successors in interest of the mortgagee forever in fee simple or such other estate, if any, as is stated herein.

The mortgagor covenants that he is lawfully seized and possessed of and has the right to sell and convey said property; that the same is free from all encumbrances except as hereinabove recited; and that he hereby binds himself and his successors in interest to warrant and defend the title aforesaid thereto and every part thereof against the claims of all persons whomsoever.

This instrument is given to secure the payment of a promissory note dated **K** in the
principal sum of \$ **L**
in behalf of **N** signed by **M** **O**

Said promissory note was given to secure a loan in which the Small Business Administration, an agency of the United States of America, has participated. In compliance with section 101.1(d) of the Rules and Regulations of the Small Business Administration [13 C.F.R. 101.1(d)], this instrument is to be construed and enforced in accordance with applicable Federal law.

1. The mortgagor covenants and agrees as follows:

a. He will promptly pay the indebtedness evidenced by said promissory note at the times and in the manner therein provided.

b. He will pay all taxes, assessments, water rates, and other governmental or municipal charges, fines, or impositions, for which provision has not been made hereinbefore, and will promptly deliver the official receipts therefor to the said mortgagee.

c. He will pay such expenses and fees as may be incurred in the protection and maintenance of said property, including the fees of any attorney employed by the mortgagee for the collection of any or all of the indebtedness hereby secured, or foreclosure by mortgagee's sale, or court proceedings, or in any other litigation or proceeding affecting said property. Attorneys' fees reasonably incurred in any other way shall be paid by the mortgagor.

d. For better security of the indebtedness hereby secured, upon the request of the mortgagee, its successors or assigns, he shall execute and deliver a supplemental mortgage or mortgages covering any additions, improvements, or betterments made to the property hereinabove described and all property acquired by it after the date hereof (all in form satisfactory to mortgagee). Furthermore, should mortgagor fail to cure any default in the payment of a prior or inferior encumbrance on the property described by this instrument, mortgagor hereby agrees to permit mortgagee to cure such default, but mortgagee is not obligated to do so; and such advances shall become part of the indebtedness secured by this instrument, subject to the same terms and conditions.

e. The rights created by this conveyance shall remain in full force and effect during any postponement or extension of the time of the payment of the indebtedness evidenced by said promissory note or any part thereof secured hereby.

f. He will continuously maintain hazard insurance, of such type or types and in such amounts as the mortgagee may from time to time require on the improvements now or hereafter on said property, and will pay promptly when due any premiums thereof. All insurance shall be carried in companies acceptable to mortgagee and the policies and renewals thereof shall be held by mortgagee and have attached thereto loss payable clauses in favor of and in form acceptable to the mortgagee. In event of loss, mortgagor will give immediate notice in writing to mortgagee, and mortgagee may make proof of loss if not made promptly by mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to mortgagee instead of to mortgagor and mortgagee jointly, and the insurance proceeds, or any part thereof, may be applied by mortgagee at its option either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged or destroyed. In event of foreclosure of this mortgage, or other transfer of title to said property in extinguishment of the indebtedness secured hereby, all right, title, and interest of the mortgagor in and to any insurance policies then in force shall pass to the purchaser or mortgagee or, at the option of the mortgagee, may be surrendered for a refund.

g. He will keep all buildings and other improvements on said property in good repair and condition; will permit, commit, or suffer no waste, impairment, deterioration of said property or any part thereof; in the event of failure of the mortgagor to keep the buildings on said premises and those erected on said premises, or improvements thereon, in good repair, the mortgagee may make such repairs as in its discretion it may deem necessary for the proper preservation thereof; and the full amount of each and every such payment shall be immediately due and payable; and shall be secured by the lien of this mortgage.

h. He will not voluntarily create or permit to be created against the property subject to this mortgage any lien or liens inferior or superior to the lien of this mortgage without the written consent of the mortgagee; and further, that he will keep and maintain the same free from the claim of all persons supplying labor or materials for construction of any and all buildings or improvements now being erected or to be erected on said premises.

i. He will not rent or assign any part of the rent of said mortgaged property or demolish, or remove, or substantially alter any building without the written consent of the mortgagee.

j. All awards of damages in connection with any condemnation for public use of or injury to any of the property subject to this mortgage are hereby assigned and shall be paid to mortgagee, who may apply the same to payment of the installments last due under said note, and mortgagee is hereby authorized, in the name of the mortgagor, to execute and deliver valid acquittances thereof and to appeal from any such award.

k. The mortgagee shall have the right to inspect the mortgaged premises at any reasonable time.

2. Default in any of the covenants or conditions of this instrument or of the note or loan agreement secured hereby shall terminate the mortgagor's right to possession, use, and enjoyment of the property, at the option of the mortgagee or his assigns (it being agreed that the mortgagor shall have such right until default). Upon any such default, the mortgagee shall become the owner of all of the rents and profits accruing after default as security for the indebtedness secured hereby, with the right to enter upon said property for the purpose of collecting such rents and profits. This instrument shall operate as an assignment of any rentals on said property to that extent.

3. The mortgagor covenants and agrees that if he shall fail to pay said indebtedness or any part thereof when due, or shall fail to perform any covenant or agreement of this instrument or the promissory note secured hereby, the entire indebtedness hereby secured shall immediately become due, payable, and collectible without notice, at the option of the mortgagee or assigns, regardless of maturity, and the mortgagee or his assigns may before or after entry sell said property without appraisal (the mortgagor having waived and assigned to the mortgagee all rights of appraisal):

(I) at judicial sale pursuant to the provisions of 28 U.S.C. 2001 (a); or

(II) at the option of the mortgagee, either by auction or by solicitation of sealed bids, for the highest and best bid complying with the terms of sale and manner of payment specified in the published notice of sale, first giving four weeks' notice of the time, terms, and place of such sale, by advertisement not less than once during each of said four weeks in a newspaper published or distributed in the county in which said property is situated, all other notice being hereby waived by the mortgagor (and said mortgagee, or any person on behalf of said mortgagee, may bid with the unpaid indebtedness evidenced by said note). Said sale shall be held at or on the property to be sold or at the Federal, county, or city courthouse for the county in which the property is located. The mortgagee is hereby authorized to execute for and on behalf of the mortgagor and to deliver to the purchaser at such sale a sufficient conveyance of said property, which conveyance shall contain recitals as to the happening of the default upon which the execution of the power of sale herein granted depends; and the said mortgagor hereby constitutes and appoints the mortgagee or any agent or attorney of the mortgagee, the agent and attorney in fact of said mortgagor to make such recitals and to execute said conveyance and hereby covenants and agrees that the recitals so made shall be effectual to bar all equity or right of redemption, homestead, dower, and all other exemptions of the mortgagor, all of which are hereby expressly waived and conveyed to the mortgagee; or

(III) take any other appropriate action pursuant to state or Federal statute either in state or Federal court or otherwise for the disposition of the property.

In the event of a sale as hereinbefore provided, the mortgagor or any persons in possession under the mortgagor shall then become and be tenants holding over and shall forthwith deliver possession to the purchaser at such sale or be summarily dispossessed, in accordance with the provisions of law applicable to tenants holding over. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise, and are granted as cumulative to the remedies for collection of said indebtedness provided by law.

4. The proceeds of any sale of said property in accordance with the preceding paragraphs shall be applied first to pay the costs and expenses of said sale, the expenses incurred by the mortgagee for the purpose of protecting or maintaining said property, and reasonable attorneys' fees; secondly, to pay the indebtedness secured hereby; and thirdly, to pay any surplus or excess to the person or persons legally entitled thereto.

5. In the event said property is sold at a judicial foreclosure sale or pursuant to the power of sale hereinabove granted, and the proceeds are not sufficient to pay the total indebtedness secured by this instrument and evidenced by said promissory note, the mortgagee will be entitled to a deficiency judgment for the amount of the *deficiency without regard to appraisal*.

6. In the event the mortgagor fails to pay any Federal, state, or local tax assessment, income tax or other tax lien, charge, fee, or other expense charged against the property the mortgagee is hereby authorized at his option to pay the same. Any sums so paid by the mortgagee shall be added to and become a part of the principal amount of the indebtedness evidenced by said note, subject to the same terms and conditions. If the mortgagor shall pay and discharge the indebtedness evidenced by said promissory note, and shall pay such sums and shall discharge all taxes and liens and the costs, fees, and expenses of making, enforcing, and executing this mortgage, then this mortgage shall be canceled and surrendered.

7. The covenants herein contained shall bind and the benefits and advantages shall inure to the respective successors and assigns of the parties hereto. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

8. No waiver of any covenant herein or of the obligation secured hereby shall at any time thereafter be held to be a waiver of the terms hereof or of the note secured hereby.

9. A judicial decree, order, or judgment holding any provision or portion of this instrument invalid or unenforceable shall not in any way impair or preclude the enforcement of the remaining provisions or portions of this instrument.

10. Any written notice to be issued to the mortgagor pursuant to the provisions of this instrument shall be addressed to the mortgagor at **P** and any written notice to be issued to the mortgagee shall be addressed to the mortgagee at **Q**

☆ U.S. GPO: 1995-385-421/09085

IN WITNESS WHEREOF, the mortgagor has executed this instrument and the mortgagee has accepted delivery of this instrument as of the day and year aforesaid.

R
S

U

T
V

Executed and delivered in the presence of the following witnesses:

W

X

Y

Z

(Add Appropriate Acknowledgment)

a

MORTGAGE

TO

RECORDING DATA

RETURN TO:

Name

Address

.....

**SECURITY AGREEMENT
(SBA FORM 1059)**

- A. Date the Security Agreement is signed.
- B. Name of the party making the Security Agreement.
- C. Address of the party making the Security Agreement.
- D. Name of the Lender.
- E. Address of the Lender.
- F. Date of the Note.
- G. Amount of the Note, written in words.
- H. Amount of the Note, written in numbers.
- I. Collateral description section. Complete by inserting an "X" in the appropriate box OR in 2 such boxes if a purchase money security interest is also intended.

(Note: Additional or more specific descriptions of the property to be encumbered may be set forth on an attached, accurately referenced exhibit.)
- J. Appropriate form of individual, proprietary, partnership, or corporate execution clause which includes date of execution.
- K. Name of the Debtor executing the Agreement.
- L. Signature of the person executing the Agreement on behalf of the Debtor.
- M. Name and title of the person executing the Agreement on behalf of the Debtor unless it is the same person as item J.
- N. Corporate seal should be affixed, if applicable.



U.S. Small Business Administration

SECURITY AGREEMENT

Date **A**1. **B** (hereinafter called "Debtor"),
(Name)**C**, for value received,
(Address)hereby grants to **D**,
(Name)**E** (hereinafter called
(Address)

"Secured Party"), a security interest in the property described below (hereinafter collectively called "Collateral") to secure the payment of the principal and interest on and all obligations under a note (hereinafter called the "Note"), dated

F, of the Debtor payable to the order of the Secured Party, in the principal amount of
G Dollars (\$ **H**), all renewals and

extensions of the Note, and all costs, expenses, advances and liabilities which may be made or incurred by Secured Party in the disbursement, administration and collection of the loan evidenced by the Note and in the protection, maintenance and liquidation of the security interest hereby granted with interest at the maximum legal rate on such costs, expenses, advances and liabilities. The Note and all other obligations secured hereby are herein collectively called the "Liabilities."

2. The Collateral in which this security interest is granted is all of the Debtor's property described below in reference to which an "X" or checkmark has been placed in the box applicable thereto, together with all the proceeds and products therefrom. If two such boxes are so marked, the security interest so designated secures the purchase money from the loan used by the Debtor to acquire title to the Collateral.

- ☐ ☐ a. All equipment and machinery, including power-driven machinery and equipment, furniture and fixtures now owned or hereafter acquired, together with all replacements thereof, all attachments, accessories, parts and tools belonging thereto or for use in connection therewith.
- ☐ ☐ b. All passenger and commercial motor vehicles registered for use upon public highways or streets, now owned or hereafter acquired, together with all replacements thereof, all attachments, accessories, parts, equipment and tools belonging thereto or for use in connection therewith.
- ☐ ☐ c. All inventory, raw materials, work in process and supplies now owned or hereafter acquired.
- ☐ ☐ d. All accounts receivable now outstanding or hereafter arising.
- ☐ ☐ e. All contract rights and general intangibles now in force or hereafter acquired.

3. Debtor shall not transfer, sell or assign Debtor's interest in the Collateral nor permit any other security interest to be created thereon without Secured Party's prior written approval, except that Debtor may sell the inventory listed in Paragraph 2.c. hereof in the ordinary course of business on customary terms and at usual prices and may collect as Secured Party's agent sums due on accounts receivable and contract rights listed in Paragraphs 2.d. and 2.e. until advised otherwise by Secured Party.

PLEASE NOTE: The estimated burden for completing this form is 20 minutes per response. You are not required to respond to any collection of information unless it displays a currently valid OMB approval number. Comments on the burden should be sent to U.S. Small Business Administration, Chief, AIB, 409 3rd St., S.W., Washington D.C. 20416 and Desk Officer for the Small Business Administration, Office of Management and Budget, New Executive Office Building, Room 10202, Washington, D.C. 20503. OMB Approval (3245-0201). PLEASE DO NOT SEND FORMS TO OMB.

4. Debtor shall keep, store or regularly garage all Collateral at locations approved by Secured Party in writing.
5. Debtor shall not conduct business under any other name than that given above nor change or reorganize the type of business entity under which it does business except upon prior written approval of Secured Party. If such approval is given, Debtor guarantees that all documents, instruments and agreements demanded by Secured Party shall be prepared and filed at Debtor's expense before such change of name or business entity occurs.
6. Debtor shall pay the filing and recording costs of any documents or instruments necessary to perfect, extend, modify, or terminate the security interest created hereunder, as demanded by Secured Party.
7. Debtor shall maintain all Collateral in good condition, pay promptly all taxes, judgments, or changes of any kind levied or assessed thereon, keep current all rent due on premises where Collateral is located, and maintain insurance on all Collateral against hazards, in such amounts and with such companies as Secured Party may demand, all such insurance policies to be in the possession of Secured Party and to contain a Lender's Loss Payable Clause naming Secured Party in a manner satisfactory to Secured Party. Debtor hereby assigns to Secured Party any proceeds of such policies and all unearned premiums thereon, and authorizes and empowers Secured Party to collect such sums and to execute and endorse in Debtor's name all proofs of loss, drafts, checks and any other documents necessary to accomplish such collections, and any persons or entities making payments to Secured Party under the terms of this Paragraph are hereby received absolutely from any obligation to see to the application of any sums so paid.
8. Debtor shall be in default hereunder if Debtor fails to perform any of the liabilities imposed hereby or any other obligation required by the various instruments or papers evidencing or securing this loan, or if the full balance of the loan becomes immediately payable under the terms of such instruments, either automatically or by declaration of the Secured Party. In the event of any default, Secured Party may, in its own discretion, cure such default and, if it does so, any expenditures made for such purpose shall be added to the principal of the Note.
9. In the event of default, Debtor shall assemble and make available all Collateral at any place designated by Secured Party. Debtor acknowledges being advised of a constitutional right to a court notice and hearing to determine whether, upon default, there is probable cause to sustain the validity of the Secured Party's claim and whether the Secured Party is entitled to possession of the Collateral and being so advised, Debtor hereby voluntarily gives up, waives and surrenders any right to a notice and hearing to determine whether there is probable cause to sustain the validity of Secured Party's claim. Any notices required pursuant to any state or local law shall be deemed reasonable if mailed by Secured Party to the persons entitled thereto at their last known addresses at least ten days prior to disposition of the Collateral, and, in reference to a private sale, need state only that Secured Party intends to negotiate such a sale. Disposition of Collateral shall be deemed commercially reasonable if made pursuant to a public offering advertised at least twice in a newspaper of general circulation in the community where the Collateral is located or by a private sale for a sum equal to or in excess of the liquidation value of the Collateral as determined by Secured Party.
10. All rights conferred on Secured Party hereby are in addition to those granted to it by any state or local law or any other law. Failure or repeated failure to enforce any rights hereunder shall not constitute an estoppel or waiver of Secured Party's rights to exercise such rights accruing prior or subsequent thereto. Secured Party shall not be liable for any loss to Collateral in its possession, nor shall such loss diminish the debt due, even if the loss is caused or contributed to by Secured Party's negligence.

IN WITNESS WHEREOF, _____

J

K

L

M

N

**RESOLUTION OF BOARD OF DIRECTORS
(SBA FORM 160)**

- A. Loan number assigned by SBA.
- B. Corporate name of the Borrower. (You may want to check with the Secretary of State to see if the spelling is correct.)
- C. Name of the Lender.
- D. Amount of the loan according to the Loan Authorization.
- E. Typewritten name(s) of the corporate officer(s) signing the document.
- F. Title(s) of the corporate officer(s).
- G. Signature(s) of the corporate officer(s).
- H. Corporate name of the Borrower.
- I. Name of City and State where the corporate meeting was held to authorize the corporate officers to borrow and sign on behalf of the corporation.
- J. Date, month and year corporate meeting was held.
- K. Signature of the Secretary of the Corporation.
- L. Affix Corporate Seal.

(Note: Slightly modified resolution authorizing corporation to provide guaranty should be used in the case of Corporate Guarantors.)



U.S. SMALL BUSINESS ADMINISTRATION
RESOLUTION OF BOARD OF DIRECTORS OF

SBA LOAN NO
A
(For Corporate Applicants)

B

(Name of Applicant)

(1) RESOLVED, that the officers of this corporation named below, or any one of them, or their, or any one of their, duly elected or appointed successors in office, be and they are hereby authorized and empowered in the name and on behalf of this corporation and under its corporate seal to execute and deliver to the **C** (hereinafter called "Lender") or the Small Business Administration (hereinafter called "SBA"), as the case may be, in the form required by Lender or SBA, the following documents: (a) application for a loan or loans, the total thereof not to exceed in principal amount \$ **D**, maturing upon such date or dates and bearing interest at such rate or rates as may be prescribed by Lender or SBA; (b) applications for any renewals or extensions of all or any part of such loan or loans and of any other loans, heretofore or hereafter made by Lender or SBA to this corporation; (c) the promissory note or notes of this corporation evidencing such loan or loans or any renewals or extensions thereof; and (d) any other instruments or agreements of this corporation which may be required by Lender or SBA in connection with such loans, renewals, and/or extensions; and that said officers in their discretion may accept any such loan or loans in installments and give one or more notes of this corporation therefor, and may receive and endorse in the name of this corporation any checks or drafts representing such loan or loans or any such installments;

(2) FURTHER RESOLVED, that the aforesaid officers or any one of them, or their duly elected or appointed successors in office, be and they are hereby authorized and empowered to do any acts, including but not limited to the mortgage, pledge, or hypothecation from time to time with Lender or SBA of any or all assets of this corporation to secure such loan or loans, renewals and extensions, and to execute in the name and on behalf of this corporation and under its corporate seal or otherwise, any instruments or agreements deemed necessary or proper by Lender or SBA, in respect of the collateral securing any indebtedness of this corporation;

(3) FURTHER RESOLVED, that any indebtedness heretofore contracted and any contracts or agreements heretofore made with Lender or SBA on behalf of this corporation, and all acts of officers or agents of this corporation in connection with said indebtedness or said contracts or agreements, are hereby ratified and confirmed;

(4) FURTHER RESOLVED, that the officers referred to in the foregoing resolutions are as follows:

E	F	G
(Typewrite name)	(Title)	(Signature)
_____	_____	_____
(Typewrite name)	(Title)	(Signature)
_____	_____	_____
(Typewrite name)	(Title)	(Signature)
_____	_____	_____
(Typewrite name)	(Title)	(Signature)
_____	_____	_____
(Typewrite name)	(Title)	(Signature)

(5) FURTHER RESOLVED, that Lender or SBA is authorized to rely upon the aforesaid resolutions until receipt of written notice of any change.

CERTIFICATION

I HEREBY CERTIFY that the foregoing is a true and correct copy of a resolution regularly presented to and adopted by the Board of Directors of **H**

at **I** on the **J** day of _____, 19____, at which a quorum was present and voted, and that such resolution is duly recorded in the minute book of this corporation; that the officers named in said resolution have been duly elected or appointed to, and are the present incumbents of, the respective offices set after their respective names; and that the signatures set opposite their respective names are their true and genuine signatures.

(Seal)

L

K

Secretary

**CERTIFICATE AS TO PARTNERS
(SBA FORM 160A)**

- A. Loan number assigned by SBA.
- B. Business name of the Borrower.
- C. Name of the Lender.
- D. Day signed by the partners.
- E. Month signed by the partners.
- F. Year signed by the partners.
- G. Typewritten name of the partner(s).
- H. Signature(s) of the partner(s).
- I. Acknowledgment by notary public.....names of each partner
who signed the form should be listed within the notary's
acknowledgment.



U.S. SMALL BUSINESS ADMINISTRATION
CERTIFICATE AS TO PARTNERS

A
SBA LOAN NO.

B

I, the undersigned, are general partners doing business under the firm name and style of _____ and constitute all the partners thereof.

Acts done in the name of or on behalf of the firm, by any one of us shall be binding on said firm and each and all of us.

This statement is signed and the foregoing representations are made in order to induce the _____ (hereinafter called "Lender") or the Small Business Administration (hereinafter called

"SBA"):

1. To consider applications for a loan or loans to said firm when signed by any one of us.
2. To make a loan or loans to said firm against a promissory note or promissory notes signed in the firm name by any one of us.
3. To accept as security for the payment of such note or notes any collateral which may be offered by any one of us.
4. To consider applications signed in the firm name by any one of us for any renewals or extensions for all or any part of such loan or loans and any other loan or loans heretofore or hereafter made by Lender or SBA to said firm.
5. To accept any other instruments or agreements of said firm which may be required by Lender or SBA in connection with such loan, renewals, or extensions when signed by any one of us.

Any indebtedness heretofore contracted and any contracts or agreements heretofore made with Lender or SBA on behalf of said firm and all acts of partners or agents of said firm in connection with said indebtedness or said contracts or agreements are hereby ratified and confirmed, and we do hereby certify that THERE IS ATTACHED HERETO A TRUE COPY OF OUR AGREEMENT OF PARTNERSHIP.

Each of the undersigned is authorized to mortgage and/or pledge all or any part of the property, real, personal, or mixed, of said firm as security for any such loan.

This statement and representations made herein are in no way intended to exclude the general authority of each partner as to any acts not specifically mentioned or to limit the power of any one of us to bind said firm and each and every one of us individually.

Lender or SBA is authorized to rely upon the aforesaid statements until receipt of written notice of any change.

igned this **D** day of **E**, 19 **F**.

G

(Typewrite Name)

(Typewrite Name)

(Typewrite Name)

(Typewrite Name)

(Typewrite Name)

(Typewrite Name)

(Typewrite Name)

(Typewrite Name)

H

(Signature)

(Signature)

(Signature)

(Signature)

(Signature)

(Signature)

(Signature)

(Signature)

State of _____)

County of _____)ss:

On this _____ day of _____, 19 _____, before me personally appeared

_____ and _____ and _____ and _____ and _____ and _____ and _____ and _____

to be known to be the persons described in an who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

My commission expires _____

NOTE: If this form of notarial certificate cannot be used in the State in question, the form should be properly modified.



**LESSOR'S AGREEMENT
(RO IV FORM 77)**

- A. State in which Agreement is being executed.
- B. City in which Agreement is being executed.
- C. Street address of the leased property.
- D. City and State of the leased property.
- E. Name of the Lender.
- F. Amount of the loan as set forth in the Loan Authorization.
- G. Name of the Borrower (which should be the same as the name of the person/entity leasing the property).
- H. Date this agreement is being executed...day, month, and year.
- I. Name of the Landlord.
- J. Signatures of two witnesses.

LESSOR'S AGREEMENT
IN SMALL BUSINESS ADMINISTRATION LOAN

STATE OF A
CITY OF B

LOCATION OF PROPERTY:
C
Street Address
D
City State

For and in consideration of E
_____, making a loan in the amount of F
_____ to G
_____ (herein called "Lessee") the Lessor agrees

1. That as of this date, Lessee is not in default under any terms of the lease of the premises occupied by borrower.
2. That in the event of any default under such lease, Lessor will not terminate the lease or take any action to enforce any claim with respect thereto without giving to the holder of the Note at least sixty days' prior written notice and the right to cure such default within said period; and so long as the holder of the Note has not entered in possession of the premises leased in lease for the purpose of operating, the said business, it shall not be liable for rent or any other obligation of Lessee pursuant to, or in connection with said lease, and Lessee shall remain liable for all such rents and obligations.
3. That Lessor subordinates to all liens securing the Note until payment in full of the indebtedness evidenced by the Note, every lien of Lessor on, and every right of Lessor to institute proceedings to establish any lien or claim against any or all of the property hypothecated as collateral for the Note.
4. That Lessor has full power and authority to execute said instrument and has title of the leased premises or such property rights therein as to make effective the vesting in Lessee of rights with respect thereto in accordance with the terms of said lease and the said instruments.
5. That none of the property of Lessee situated on said leased premises constitutes fixtures or any part of the real estate of Lessor as same has been placed on said premises with the agreement and understanding that such property may be removed therefrom by the Lessee or assigns, and all property hereafter placed on leased premises by Lessee may be removed therefrom and shall not be considered affixed as part of the real estate.

Signed, sealed and delivered this H day of _____, 19__.

I
Lessor

Witness: J

Witness: _____

(Acknowledgment, as required)

COLLATERAL ASSIGNMENT OF LEASE
(RO IV 79)

- A. Day assignment is executed.
- B. Month assignment is executed.
- C. Year assignment is executed.
- D. Name of the Borrower.
- E. Name of the Lender.
- F. Day, month and year the lease being assigned was originally executed.
- G. Name of the Landlord.
- H. Street address (plus any other description as may be deemed appropriate for proper identification) of the leased property.
- I. Numeric amount of the loan as stated in the Loan Authorization.
- J. Name of the Borrower.
- K. Signature of person executing on behalf of the Borrower.
- L. Typed name and title of the person executing on behalf of the Borrower unless it is the same as Item J.
- M. Name of the Landlord.
- N. Signature of person executing on behalf of the Landlord.
- O. Typed name and title of the person executing on behalf of the Landlord unless it is the same as Item M.

COLLATERAL ASSIGNMENT OF LEASE

This Assignment of Lease entered into as of this A day of B, 19C, by and between D

(hereinafter referred to as "Borrower") party of the first part; and E
(hereinafter referred to as "SBA/Bank", as the case may be) party of the second part; witnesseth that:

WHEREAS, by Lease dated the F day of _____, 19____,
G (Lessor) leased unto Borrower, the premises briefly described as: H

WHEREAS, SBA/Bank has agreed to make a loan in the amount of \$I to the Borrower, one of the conditions of which requires that the party of the first part assign its rights, title and interest in said Lease, with the right to reassign same, as additional security for said Loan;

NOW, THEREFORE, for and in consideration of the making of a loan by SBA/Bank to Borrower, Borrower does hereby assign, transfer and set over unto the SBA/Bank, with the right to reassign, all of its rights, title and interest in and to the Lease and in and to the demised premises; it being nevertheless expressly understood and agreed that this Assignment of Lease is made by the party of the first part to the SBA/Bank upon the following terms, covenants, limitations, and conditions:

1. Borrower shall retain possession of the leased premises in accordance with the terms and conditions of the Lease so long as no default is made in the payments of the Note or in any agreement evidencing said Loan.

2. If default be made by the Borrower in the payment or performance of the Loan, then SBA/Bank shall have the option of taking over the leased premises, provided, however, that in the event SBA/Bank elects to exercise said option of taking over the demised premises for the purpose of operating the same, written notice of its election so to do shall be mailed promptly by SBA/Bank to the Lessor. SBA/Bank shall not have the right to possession of the leased premises until such notice is received by Lessor. Upon the receipt of notice of exercise of such option, the SBA/Bank shall be deemed to be substituted as the Lessee in said Lease in the place and instead of the Borrower, and shall be deemed to have assumed expressly all of the terms, covenants, and obligations of the Lease theretofore applicable to the party of the first part, and shall likewise be entitled to enjoy all of the rights and privileges granted to the Borrower under the terms and conditions of the Lease, with the right to reassign same.

3. It is understood and agreed that so long as the SBA/Bank shall not have exercised its option under the foregoing provisions hereof as to the leased premises, the SBA/Bank shall not be liable for rent or any obligation of the Borrower under and by virtue of or in connection with the Lease, and the Borrower shall remain liable for such rent and obligations.

4. Borrower and Lessor shall not, by agreement or alone, modify or terminate this lease without written consent of SBA/Bank.

CONSENT:

M
N
O
(Lessor)

J
K
L (Borrower)

acknowledgement, as required)

STANDBY CREDITOR'S AGREEMENT
(SBA FORM 155)

- A. Copy SBA Loan Number from the Authorization.
- B. The term "SBA Loan Name" is new. This must be the same as in the Authorization.

The SBA Loan Name is the **first available** name from the following list:

- a. The "dba" name (trade name) of the Operating Company
- b. The actual (legal) name of the Operating Company
- c. The "dba" name (trade name) of the Borrower
- d. The actual (legal) name of the Borrower

If there is more than one Borrower or Operating Company, use the first Borrower or Operating Company listed in the Authorization and apply the above rules.

- C. Enter the name of the Standby Creditor.
- D. Enter the **legal** name of the Borrower who owes the Standby Creditor. DO NOT use a trade name here.
- E. Name of the Lender.
- F. Principal amount of the standby claim in numbers.
- G. Interest amount of the standby claim in numbers.
- H. Amount of the loan as set forth in the Loan Authorization.
- I. Check appropriate standby provision (only one box).
- J. Date this agreement is being executed...day, month, and year.
- K. Signature, printed name and title (if any) of the person signing on behalf of the Standby Creditor unless information is the same as in Item C.



STANDBY CREDITOR'S AGREEMENT

SBA Loan #	A
SBA Loan Name	B
Standby Creditor	C
Standby Borrower	D
Lender	E

_____ D _____ (Standby Borrower)
 owes \$ _____ F _____ principal and \$ _____ G _____ interest to
 _____ C _____ (Standby Creditor)
 as of the date of this Agreement (Standby Loan) (Copy of Standby Note attached). To induce
 _____ E _____ (Lender) to make an
 SBA guaranteed loan to Standby Borrower or guaranteed by Standby Borrower, Loan Number _____ A _____
 in the amount of \$ _____ H _____ (Lender's Loan).

Standby Creditor agrees: (Check only one box)

- ☐ To accept no further payments on the Standby Loan until Lender's Loan is satisfied
☐ To accept interest only payments at a rate of _____ % per annum (no principal payments) on Standby Loan until Lender's Loan is satisfied or until notified by Lender to stop accepting payments,
☐ To accept payments of principal and interest at the rate of _____ % per annum on the Standby Loan unless notified by Lender to stop accepting payments.
☐ To accept payments of principal and interest at the rate of _____ % per annum beginning on _____.
- To turn over to Lender payments received by Standby Creditor from Standby Borrower in violation of this Agreement within 15 days of receipt.

3. To take no action to enforce claims against Standby Borrower on the Standby Loan until Lender's Loan is satisfied.
4. To take no action against Standby Borrower's collateral, without written consent from the Lender, until Lender's Loan is satisfied.
5. To sign appropriate documentation required by Lender to subordinate to Lender's Loan secured interests in collateral that secures the Standby Loan.
6. Lender, in its sole discretion, may take any action without affecting this Agreement, including but not limited to the following:
 - a. Modify the terms of Lender's Loan.
 - b. Grant an extension or renewal of Lender's Loan.
 - c. Defer payments or enter into a workout agreement on Lender's Loan.
 - d. Release or substitute collateral securing Lender's Loan.
 - e. Forbear from collecting on existing collateral or requiring additional collateral.
 - f. Declare a default on Lender's Loan and notify Standby Creditor to stop accepting payments.
 - g. Agree to release, compromise, or settlement of Lender's Loan.
7. This Agreement applies to any successor to the Standby Creditor or assignee of this Agreement or of Standby Creditor's Loan, including any bankruptcy trustee or receiver or guarantors or sureties of Standby Creditor Loan.
8. Additional Loans made by Standby Creditor will be subject to the terms of this Agreement, unless Lender agrees otherwise in writing.

Dated: **J**

Standby Creditor: _____

K

By: (signature) _____

(name) _____



NOTICE TO NEW SBA BORROWERS

This notice informs recipients of SBA financing of the minimum actions required to show evidence that they are complying with the requirements of Parts 112, 113 and 117 of SBA Rules and Regulations. Actual compliance with nondiscriminatory regulations can be determined only after a review and examination of all facts, practices and records relating to the operation of the business. During the life of the loan, especially, if a complaint of discrimination is lodged against the business, a compliance review may be conducted. The records described below will be reviewed during such compliance review.

Generally, subsections 112.9, 113.5 and 117.9 of SBA's nondiscrimination regulations require all SBA recipients of financial assistance to keep records which would enable SBA to ascertain whether the recipient has complied or is complying with SBA's regulations for the length of the loan. Specifically, recipients are required to retain for two years all applications and employment records, current payroll records, and other records usually kept for the prudent conduct of business. Other records (e.g., admission forms, etc.) which show the extent to which members of minority groups are beneficiaries of the recipient's services, where applicable, should also be available for examination during the compliance review.

At the time of the initial compliance inquiry, SBA will require that minimum implementation of the employer's equal opportunity program specifically include the following actions.

NOTE: Where appropriate models of the required actions are provided, they may be used as written, or they may be amended to meet the needs of the particular borrowers, provided the essential aim of the model is not lost.

1. Preparation and dissemination to all employees and applicants for employment of a written statement outlining the employer's policy of extending equal opportunity to all persons without regard to race, color, religion, sex, marital status, age, handicap, or national origin in such matters as customer service, recruitment, promotions and advancements, training programs, wages and salaries, work schedules, transfers, layoffs, demotions, seniority rights, fringe benefits and utilization of restrooms, lunch rooms, drinking fountains, recreation and parking area. (See pages 3 and 40.)

2. Specific designation of responsible officials to coordinate and implement the equal employment opportunity program.
3. Development of procedures for the dissemination and feedback of equal opportunity information to supervisory personnel and their subordinates, i.e.
 - a. Forward to all supervisory personnel (initialed signature) written notice that employee meetings will be held during which management's equal opportunity policy and program will be discussed.
 - b. Request that each supervisor advise management of the date such meetings were held and how the equal opportunity subject matter was interpreted to all employees in attendance at such meetings.
4. Where applicable, notifications to unions in writing of your equal opportunity policy; seek incorporation of such policies in union agreements. (See page 5) Request written acknowledgement of receipt of your notice to the unions.
5. Posting of SBA posters in conspicuous places, visible to the public, employees and applicants for employment, indicating that your company is an equal opportunity firm.
6. Utilize "An Equal Opportunity Employer" in all help-wanted advertisements and job orders.

In addition to the minimum actions, SBA policy requires that all borrowers and subrecipients of SBA financing take necessary steps to assure the public, and employees or applicants for employment, and equal opportunity. With due regard for the size of your business, select the appropriate items from the enclosed checklist (page 7 and 8) which provides the varied components of a necessary action. The larger your business, particularly in terms of number of employees, the greater the opportunity to employ a wider range of checklist items. Continue to keep these measures alive by setting up appropriated follow-up procedures. Your program should be planned to achieve continual minority group, female, and qualified handicapped improvement and inclusion in apprentice and training programs, entry-level, white collar and supervisory occupations.

Should you have any further questions, desire additional information or assistance in connection with the development and implementation of your equal opportunity policies as required by our regulations, please contact the Area Civil Rights Director responsible for your geographic area through the office by which your loan was approved.

MODEL POLICY STATEMENT

TO: Department Managers
Supervisory Personnel
Employees
Applicants for Employment

SUBJECT: Equal Employment Opportunity

OBJECTIVE: To obtain qualified employees consistent with position requirements; to seek, employ, promote, and treat all employees and applicants for employment without discrimination as to race, color, religion, sex, age, marital status, handicap, or national origin.

It is the policy of the _____ Company/ Corporation to give equal opportunity to all qualified persons without regard to race, color, religion, sex marital status, age, handicap, or national origin.

All employment practices are to provide that all individuals be recruited, hired, assigned, advanced, compensated and retained on the basis of their qualifications, and treated equally in these and all other respects without regard to race, color, religion, age, sex, marital status, handicap, or national origin.

It shall be considered the responsibility of every supervisory employee to further the implementation of this policy and ensure conformance by their subordinates.

Supervisory personnel as well as those responsible for hiring new employees must take all necessary action in the elimination of possible discrimination towards employees and applicants for employment with _____ Company/ Corporation in all categories and levels of employment and employee relations.

Responsibility for seeing that this policy is continuously followed has been assigned to _____ The

(designated official)
designated official shall work with each department manager and plant supervisor in furthering its implementation and monitoring the progress being made.

Signature _____

MODEL POLICY STATEMENT

(For Schools, Nursing Homes, and other
similar service-oriented businesses)

TO: Department Managers
Supervisory Personnel
Employees, Applicants for Employment
Recipients of Services

SUBJECT: Equal Opportunity

OBJECTIVE: To obtain qualified employees consistent with position requirements, and to ensure that all employees, applicants and clients be treated without discrimination as to race, color, religion, sex, marital status, handicap, age, or national origin.

It is the policy of _____
to give equal employment opportunity to all qualified persons,
and to provide that all individuals be recruited, hired,
assigned, advanced, compensated and retained on the basis of
their qualifications, and treated equally in these and all other
respects without regard to race, color, religion, sex, marital
status, age, handicap, or national origin.

All selection procedures, admissions, assignments, or any
other facility shall be available to all qualified persons who
seek such services without respect to race, color, religion, sex,
marital status, handicap, age or national origin.

Supervisory personnel and other personnel responsible for
hiring and carrying out other selection policies must take all
necessary action in the elimination of possible discrimination
towards employees, applicants for employment, and clients of

Responsibility for seeing that this policy is continuously
followed has been assigned to _____. The
designated official shall work with each department manager and
other selecting official in furthering its implementation and
monitoring the progress being made.

Signature _____

MODEL REAFFIRMATION OF POLICY STATEMENT

TO: All _____ Company/Corporation
Employees

SUBJECT: Equal Employment Opportunity

Periodically it becomes desirable and necessary to restate the Company's/Corporation's policy on matters of significance to employees. One policy which it is timely to reemphasize is that of equal opportunity.

It is the policy of _____ to provide equality of opportunity for any employee or applicant for employment, irrespective of race, color, religion, sex, age, marital status or national origin. Equality of opportunity in employment shall also be extended to those qualified individuals with handicaps who apply for or are employed by this company. I am sure that you are all aware of this policy which has been given added emphasis by legislation enacted by the Federal Government to insure compliance with this principle throughout the country.

The (Company/Corporate) policy, which management is pledged to support, thus implements the enacted legislation to assure all employees of equal treatment. Through a positive expression of adherence to the principle of equal opportunity, we can ourselves achieve success for both the Company and its employees.

Responsibility for the implementation of this policy has been assigned to

(Typed Name)

(Signature)

MODEL LABOR ORGANIZATION CONTRACT CLAUSE

During the performance of this contract, both parties agree that they will not discriminate against any qualified applicant for employment, apprentice trainee, or employee because of race, color, religion, sex, marital status, age, handicap, or national origin. Both parties to this agreement will take all necessary action to insure that qualified applicants, apprentice trainees, and employees are employed and that they are treated during employment without regard to their race, color, religion, sex, age, marital status, handicap, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or training; recruitment or recruitment advertisement; and selection for training including apprenticeship. The employer agrees to post in conspicuous places, available to employees and applicants for employment, including applicants for apprentice training, notices setting forth the provisions of this nondiscrimination clause.*

Both parties to this agreement will select apprentices from among qualified applicants on the basis of qualifications alone and without regard to race, color, religion, age, sex, marital status, handicap, or national origin, or occupationally irrelevant physical requirements in accordance with objective standards which permit review, after full and fair opportunity for application; and this program shall be operated on a completely nondiscriminatory basis.

In order to insure full and continuous employment for all employees, and to establish equal opportunity in all phases of the work situation, both parties to this agreement will abide by the requirements of the equal employment opportunity affirmative action regulations of the city, state or Federal government agency which the employer is subject to with a city, a state, or a Federal government agency, and under which he/she had promised performance.

*The condition may be met by posting SBA Form 722, "Equal Opportunity Poster."

EQUAL OPPORTUNITY PROGRAM

CHECKLIST

1. Although work areas, cafeterias, washrooms and locker areas are not segregated, is there segregation which exists by tradition and practice? If so, what action is in order?
2. Do "black islands," "brown areas," female-only or individuals with handicap(s) only department/sections exist - that is minority, individuals with handicap(s), or female groups to one side of or grouped within the majority group of employees?
3. Do you maintain regular contacts with local groups concerned with racial problems?
4. Are you a member, or do you have a personal representative on local community biracial or women's committees?
5. When you advertise job openings, do you utilize minority group newspapers?
6. Are you utilizing the following suggested organizations as recruitment sources for obtaining qualified minority, female, and individuals with handicap(s) applicants: e.g.,
 - a. Urban League
 - b. NAACP
 - c. LULAC
 - d. IMAGE
 - e. Operation SER
 - f. NOW
 - g. Local minority group clergymen
 - h. United States or State Employment Service
 - i. State and Local racially oriented service organizations
 - j. Organizations concerned with the employment of individuals with handicap(s).
7. Are you recruiting applicants at high schools with predominantly minority group enrollments?
8. Are you scrutinizing the qualifications of minority, female, and qualified individuals with handicap(s) to insure that their talent is being utilized effectively?
9. Do you regularly remind your supervisors of their individual responsibilities in implementing the company's equal opportunity program?
10. Have you critically examined local employment procedures to insure unbiased consideration of majority, minority, female and qualified, individuals with handicaps.
11. Are your facilities assessible to and usable by individuals with handicaps?
12. Have you considered job tailoring in order to afford an otherwise qualified individual with a handicap an opportunity to work for your organization?

CHECKLIST (continued)

13. Are selection procedures for promotion devised to assure consideration of majority, minority, and female employees, and qualified individuals with handicap(s)?
14. Do on-the-job training programs include majority, minority and female employees, and qualified individuals with handicap(s)?
15. Does your facility cooperate with the support community vocational training programs?
16. Do you have a training program on the premises to improve the skills of majority, minority, and female employees, and qualified individuals with handicap(s).
17. Does your survey of employees with high potential include qualified individual(s) with handicaps, minority and female employees?
18. Do you have written evidence of your request for applicants from minority, and female organizations, and organizations designated for individuals with handicap(s)?
19. Do you maintain a record of your contacts with minority, and women's organizations, and organizations catering to the concerns of individuals with handicap(s)?
20. Does your "house organ" publicity covering business and social events of general interest, regularly include participants who are minority, female and individuals with handicap(s)?
21. Do you post announcements of new job openings, indicating the fact that such positions are available to all qualified personnel?
22. Do you have written job descriptions for different job classifications?
23. Does your pay scale apply equally to all new hires having like qualifications, regardless of race, color, religion, sex, marital status, age, handicap, or national origin?
24. Have all contractors and subcontractors been advised in writing of the company's equal opportunity policy?
25. Have all employees dealing with the public been advised of your policy to provide service without regard to race, color, religion, sex, marital status, handicap, age, or national origin?

PLEASE NOTE: The estimated burden for completing this form is 10 minutes per response. You will not be required to respond to this information collection if a valid OMB approval number is not displayed. If you have questions or comments concerning this estimate or other aspects of this information collection, please contact the US Small Business Administration, Chief, Administrative Information Branch, Washington D.C. 20416 and/or Office of Management and Budget, Clearance Officer, Paperwork Reduction Project (3245-0076), Washington, D.C. 20503



This Statement of Policy is Posted
In Accordance with Regulations of the
Small Business Administration

This Organization Practices
Equal Employment Opportunity

We do not discriminate on the ground of race, color, religion, sex, age, disability or national origin in the hiring, retention, or promotion of employees; nor in determining their rank, or the compensation or fringe benefits paid them.

This Organization Practices
Equal Treatment of Clients

We do not discriminate on the basis of race, color, religion, sex, marital status, disability, age or national origin in services or accommodations offered or provided to our employees, clients or guests.

**These policies and this notice comply with regulations
of the United States Government.**

Please report violations of this policy to :

**Administrator
Small Business Administration
Washington, D.C. 20416**

In order for the public and your employees to know their rights under 13 C.F.R Parts 112, 113, and 117, Small Business Administration Regulations, and to conform with the directions of the Administrator of SBA, this poster must be displayed where it is clearly visible to employees, applicants for employment, and the public.

Failure to display the poster as required in accordance with SBA Regulations may be considered evidence of noncompliance and subject you to the penalties contained in those Regulations.